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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,249	07/23/2003	David Kingsolver	1327-001	9300
47888	7590	07/31/2006	EXAMINER	
HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			RAMOS FELICIANO, ELISEO	
			ART UNIT	PAPER NUMBER

2617

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/625,249

Applicant(s)

KINGSOLVER ET AL.

Examiner

Eliseo Ramos-Feliciano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2006 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/27/2006 has been entered.

### ***Art Unit – Notice***

2. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

### ***Information Disclosure Statement***

3. The references listed in the Information Disclosure Statement filed on 04/27/2006 have been considered by the examiner (see attached PTO-1449 or PTO/SB/08A and 08B forms).

### ***Claim Objections***

4. **Claim 1** is objected to because of the following informalities: line 29 is lacking linking comma or semicolon after "communication signals". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. **Claim 1** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 1** contains the following language:

① The claim recites "a base/repeater station" indistinctively (lines 5-10, claim as amended) then "said base/repeater station" (lines 23, 28, 50). Unclear if the same base/repeater station. For examination on the merits will be treated as the same.

② The claim recites "one or more target station" and "a target station" indistinctively (lines 18, 20, 26-27, 43-46, claim as amended) then "said target station" (lines 37, 50). Unclear if the same target station. For examination on the merits will be treated as the same.

The rest of the claims shall be reviewed for consistency of language as well.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-3, 5, 7-13, and 16-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheinert et al. (US Patent Application Publication 2004/0204097 A1) in view of VOCAL Technologies Ltd. – "VOCAL" (Non-Patent Literature document number "V.34 Modem-0004A"; cited in form PTO-892).

Scheinert et al. discloses a system (Figure 5) for two-way radio communication comprising:

(a) a first two-way radio (for example, lower 24 in Figure 5) comprising:

- (i) a means for selecting and transmitting a signal code (wireless signal) to a base/repeater station (mobile station 24 inherently possess the claimed means because it can at least communicate via CDMA [page 4, paragraph 0038, line 6] and/or IP [page 2, paragraph 0024, line 6] and/or standard air interface [page 3, paragraph 0029, line 2]); and
- (ii) a means for sending communication signals to a base/repeater station (mobile station 24 inherently possess a transmitter – paragraphs 0005, 0029, 0031);
- (iii) a means for receiving communication signals from a base/repeater station (mobile station 24 inherently possess a receiver – paragraphs 0005, 0029, 0031);

(b) a base/repeater station (IBS 42 either alone or in combination with computer 44 and/or modem 46 – Figures 4-5) comprising:

- (i) a base/repeater station decoder (for example, modem 46 – see explanation hereinbelow) for decoding the signal code (wireless signal) from said first two-way radio (24) into a signal that can be recognized by a base/repeater station controller (IBSC 48 – Figure 5) and transferring said signal to said base/repeater station controller (in particular paragraph 0027; in general paragraphs 0025-0031); and
- (ii) wherein said base/repeater station controller comprises a means for receiving (inherently possess a receiver) said decoded signal from said base/repeater station decoder and correlating said decoded signal to one or more internet addresses (step 68 – Figure 6; claim 15 of Scheinert et al.) associated with at least one target station (another IBS or a BTS 22) and a means for establishing a bi-directional computer network link (via 49 or 46 – Figure 4; paragraph 0027)

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with said at least one target station using said internet address for the exchange of communication signals (in particular paragraph 0027; in general paragraphs 0025-0031);  
(iii) wherein said base/repeater station further comprises a means for sending and receiving communications signals (IBS inherently possess a transmitter and receiver) to and from said first two-way radio (paragraphs 0029, 0031);

(c) at least one target station (another IBS or a BTS 22) comprising:

(i) a target station controller (for example IBSC or BSC – Figure 5) comprising a means for establishing a bidirectional computer network link with said base/repeater station for communication signals (for example, via 49 or 46 – Figure 4; paragraph 0027);  
(ii) wherein said target station further comprises a means for sending and receiving communication signals (IBS or BTS inherently possess a transmitter and receiver) to and from a second two-way radio (paragraphs 0005, 0029, 0031); and

(d) at least one second two-way radio (another mobile station 24 or upper 24 in Figure 5; paragraphs 0005, 0029, 0031) comprising:

(i) a means for receiving communication signals from a target station (mobile station 24 inherently possess a receiver – paragraphs 0005, 0029, 0031); and  
(ii) a means for sending communication signals to a target station (mobile station 24 inherently possess a transmitter – paragraphs 0005, 0029, 0031);

(e) whereby communication signals can be bi-directionally exchanged between said first two-way radio and said second two-way radio via said bi-directional computer network link between said base/repeater station and said target station (Figures 4-5; paragraphs 0025-0031) (the language used by Applicant merely suggests or makes optional those features described as

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"can be" or "whereby"; such language does not require steps to be performed nor limits the claim to a particular structure – MPEP 2111.04).

However, Scheinert et al. does not explicitly show a decoder. Scheinert et al. does teach modem 46 can be a V.34 modem (paragraph 0085, claim 24 of Scheinert et al.).

Nevertheless, it is well known in the art that V.34 modems include and use codec (coder-decoder), and VOCAL is evidence of the fact (see lines 7, 14, 28, 40 of VOCAL). Consequently, Scheinert et al. suggests decoder as claimed by teaching V.34 modem.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a decoder in Scheinert et al.'s invention because it is suggested by himself; also for the advantage of globalization / standardization of analog and digital world.

Regarding **claim 2**, Scheinert et al. and VOCAL disclose everything claimed as applied above (see *claim 1*). In addition, Scheinert et al.'s mobile station 24 inherently possess a keypad to place calls (paragraphs 0005, 0035, 0068, 0072, etc.). Consequently, said means for selecting a signal code to said base/repeater station is a keypad device.

Regarding **claim 3**, Scheinert et al. and VOCAL disclose everything claimed as applied above (see *claim 1*). In addition, Scheinert et al. discloses wherein said means for selecting a signal code to said base/repeater station is a channel selector device (paragraphs 0029, claim 14 of Scheinert et al.).

Regarding **claim 5**, Scheinert et al. and VOCAL disclose everything claimed as applied above (see *claim 1*). In addition, Scheinert et al. discloses wherein said signaling method

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comprises a modulated RF carrier (for example, CDMA [page 4, paragraph 0038, line 6] and/or standard air interface [page 3, paragraph 0029, line 2]).

Regarding **claims 7-8**, Scheinert et al. and VOCAL disclose everything claimed as applied above (see *claim 1*). In addition, Scheinert et al. discloses wherein said base/repeater station means for correlating the signal to one or more internet addresses associated with a target station is a computer based radio controller that contains a relational data base; and wherein the Internet address is an IP address (step 68 – Figure 6; claim 15 of Scheinert et al.) (in particular paragraph 0027; in general paragraphs 0025-0031).

Regarding **claim 9**, Scheinert et al. and VOCAL disclose everything claimed as applied above (see *claim 1*). In addition, Scheinert et al. discloses wherein said means for establishing a bi-directional computer network link with one or more target base/repeater stations is a voice communication system selected from a group consisting of conventional, trunked radio systems or combinations thereof (PSTN; service providers Sprint, Verizon, Cingular, etc.; GSM, 3G – paragraphs 0002-0005, 0037-0038, 0059; Figure 5).

Regarding **claim 10**, Scheinert et al. and VOCAL disclose everything claimed as applied above (see *claim 1*). In addition, Scheinert et al. discloses wherein said target station further comprises a target station decoder for decoding a signal code from said second two-way radio into a signal that can be recognized by a base/repeater station controller and for transferring said signal to said base/repeater station controller; and wherein said target station controller further comprises a means for receiving a decoded signal from said target station decoder and correlating said decoded signal into one or more internet addresses associated with one or more base/repeater stations and a means for establishing a bi-directional computer network link with



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said at least one base/repeater station for the exchange of communication signals using said internet address; and wherein said at least one second two-way radio is further comprised of a means for selecting and transmitting a signal code to a target station (because the target station can be another IBS or a BTS 22; same explanation above for *claim 1* is applied).

**Claims 11-13 and 16-18** are corresponding method claims of apparatus *claims 1-3 and 7-9*; therefore, they are rejected for the same reasons explained above.

9. **Claims 4, 6, and 14-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheinert et al. and VOCAL as applied to *claims 1 and 11* above, and further in view of the Admitted Prior Art (disclosed on page 2, second full paragraph and page 6, second full paragraph of the present specification).

Regarding **claims 4, 6, and 14-15**, Scheinert et al. and VOCAL disclose everything claimed as applied above (see *claims 1 and 11*). However, the combination fails to specifically disclose DCS, CTCSS, DTMF, or any combination thereof, nor LTR, MPT-1327, EDACS, or any combination thereof as claimed.

However, these conventional methods/protocols are particular requirements of particular systems as shown by the prior art admitted by applicant on page 2, second full paragraph and page 6, second full paragraph of the present specification ("Admitted Prior Art"). Use of any of these conventional methods/protocols is obvious expedient as an engineering design choice.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use DCS, CTCSS, or DTMF, and/or LTR, MPT-1327, or EDACS, as claimed for the selection of any of these conventional methods/protocols is an engineering design choice as particular requirements of particular systems.

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***Response to Arguments***

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Any inquiry concerning this communication from the examiner should be directed to Eliseo Ramos-Feliciano whose telephone number is 571-272-7925. The examiner can normally be reached from 8:00 a.m. to 5:30 p.m. on 5-4/9 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro, can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ELISEO RAMOS-FELICIANO  
PRIMARY EXAMINER

ERF/erf

July 22, 2006